

Reclamation Manual

Reclamation Acquisition Regulation System

401 DM Addition to FAR & DIAR

PART WBR 1409 -- CONTRACTOR QUALIFICATIONS WBR 1409

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WBR 1409.506

**PART WBR 1409 -- CONTRACTOR
QUALIFICATIONS****SUBPART WBR 1409.2 -- QUALIFICATION
REQUIREMENTS****WBR 1409.204 Responsibilities for establishment
of a qualification requirement.**

The approval required by DIAR 1409.202 for inclusion of a qualification requirement applies only to requirements established by Reclamation. Qualification requirements established by other agencies do not require approval before use.

**WBR 1409.206 Acquisitions subject to qualification
requirements.****WBR 1409.206-2 Contract clause.**

Notwithstanding the provisions of paragraph (e) of the clause at FAR 52.209-1, Qualification Requirements, the CO shall consider an offer or bid which does not contain the information required by the clause pursuant to General Accounting Office decision B-225727 dated June 15, 1987.

**SUBPART WBR 1409.4 -- DEBARMENT,
SUSPENSION, AND INELIGIBILITY****WBR 1409.405 Effect of listing.**

The contract file shall indicate the date(s) on which the List of Parties Excluded from Federal Procurement and Nonprocurement Programs was reviewed to comply with FAR 9.405(d).

**SUBPART WBR 1409.5 -- ORGANIZATIONAL
AND CONSULTANT CONFLICTS OF
INTEREST****WBR 1409.500 Scope of subpart.**

This subpart establishes Reclamation policy and procedures for identifying, evaluating, and resolving organizational conflicts of interest for all contracts, including contracts negotiated under Section 8(a) of the Small Business Act. This subpart does not apply to interagency agreements made under FAR Subpart 17.5 or to acquisitions made under FAR Part 13.

WBR 1409.503 Waiver.

The CO shall first obtain a review by the local Office of the Solicitor before a request for a waiver of FAR Subpart 9.5 is processed for further action.

WBR 1409.504 Contracting officer responsibilities.

(a) In accordance with the procedures in FAR 9.504, if the CO determines that an award involving a conflict of interest is not in the best interest of the United States, a written determination of nonresponsibility shall also be made pursuant to FAR 9.104-1(g) and placed in the contract file.

(b) For acquisitions that may involve a significant conflict of interest, the CO shall --

(1) Prepare the documentation required by FAR 9.506(b) and submit it for HCA approval; and

(2) Insert the provision prescribed in WBR 1409.507-80(a) in the solicitation.

WBR 1409.505 General rules.**WBR 1409.505-2 Preparing specifications or work
statements.**

(a) Procedures for approval of a construction contract awarded to the firm that designed the construction project are contained in the DIAR 1436.209.

(b) In accordance with 376 Departmental Manual 4.4G., any contractor or subcontractor which prepared and furnished specifications, including mandatory requirements or evaluated optional features, to be used in a competitive acquisition of federal information processing resources, is ineligible to furnish these resources, either as a contractor or subcontractor, unless the prior written approval of the AS-PMB is obtained. Requests for approval shall be submitted by the CCO to the HCA for further processing.

WBR 1409.506 Procedures.

(a) At the request of the CO, offerors responding to solicitations or submitting unsolicited proposals shall provide information for use in identifying, evaluating, or resolving potential organizational conflicts of interest. The submittal may be a certification or a disclosure, pursuant to subparagraphs (1) or (2) of this paragraph.

(1) If the offeror is not aware of any information bearing on the existence of an organizational conflict of interest, it shall so certify.

(2) Offerors not certifying in accordance with subparagraph (1) above shall provide a disclosure statement which describes concisely all relevant facts concerning any past, present, or planned interests relating to the work to be performed and bearing on whether they, including their chief executives, directors, or any proposed consultant or subcontractor, may have an actual or potential organizational conflict of interest.

(b) In response to solicitations requesting the information in paragraph (a) of this section, the CO shall consider any inadvertent failure to provide disclosure certification as

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a matter of responsibility and may request that the offeror correct the omission within a prescribed time period, as authorized under FAR 9.105.

(c) When a contractor has previously submitted a conflict of interest certification or disclosure for a contract, only an update of such information is required if the scope of the contract is increased.

(d) The CO shall document, in writing, the resolution of any potential or actual conflicts of interest identified and include such documentation in the contract file.

WBR 1409.507 Solicitation provisions and contract clauses.**WBR 1409.507-80 Reclamation contract clauses.**

(a) Except for solicitations and contracts covered under FAR 9.507(1)(a) and (b), the CO shall insert a provision substantially the same as the provision at WBR 1452.209-80, Organizational Conflict of Interest Certification -- Bureau of Reclamation, in all solicitations when it has been determined under FAR 9.504(a)(1) that potential organizational conflicts of interest may exist.

(b) The CO shall insert a clause substantially the same as the clause at WBR 1452.209-81, Prohibition on Release of Information -- Architect-Engineer Services -- Bureau of Reclamation, in solicitations and contracts under FAR Subpart 36.6 when the statement of work includes delivery of a cost estimate which will be utilized in preparing the official Government cost estimate for the subsequent construction contract.

(c) The CO shall insert a clause substantially the same as the clause at WBR 1452.209-82, Prohibition on Release of Information -- Bureau of Reclamation, in all solicitations and contracts which require proprietary information to be obtained from a commercial source.

(d) The CO shall insert a clause substantially the same as the clause at WBR 1452.209-83, Limitation on Future Contracting -- Bureau of Reclamation, in solicitations and contracts when necessary to comply with the requirements of FAR 9.506(d)(1) and 9.507-2(a).